IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 24639 of 2007(G)

OS.452/2003 OF ADDL.MUNSIFF COURT, KOZHIKODE-II

PETITIONERS:

1. **MADHAVAN @ MOHANAN, RESIDING AT MALABAR HOUSE, KALATHIKUNNU AMSOM, DESOM, KOZHIKODE TALUK.**

2. **P.K.RADHIKA, ' GOKULAM ', PANAMPILLY NAGAR, ERNAKULAM.**

BY ADV. SRI.K.P.SREEKUMAR

RESPONDENTS:

EDATHODI MOIDEENKOYA, S/O.CHEKKUSSAIN, FEROKE AMSOM, NALLOOR DESOM, KOZHIKODE TALUK.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 24639/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PLAINT IN OS NO. 452/03 ON THE FILE OF THE MUNSIFF'S COURT, KOZHIKODE-II.

EXT.P2. COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN THE ABOVE ORIGINAL SUIT.

EXT.P3. COPY OF THE I.A. NO. 73/07 IN OS NO. 452/03 DT.1/1/07 BEFORE THE MUNSIFF'S COURT, KOZHIKODE-II.

EXT.P4. COPY OF THE ORDER DT. 6/1/07 BY THE MUNSIFF'S COURT, KOZHIKODE-II IN IA NO. 73/07 IN OS NO. 452/03.

EXT.P5. COPY OF THE IA NO. 3922/06 DT. 18/12/06 BY THE PETITIONERS BEFORE THE MUNSIFF'S COURT KOZHIKODE-II.

EXT.P6. COPY OF THE ORDER DT. 6/1/07 BY THE MUNSIFF'S COURT, KOZHIKODE-II IN IA NO. 3922/06 IN OS NO. 452/03.

RESPONDENT'S EXHIBITS NIL.

True copy

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M.N. KRISHNAN, J.

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W.P.C. NO. 24639 OF 2007

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Dated this the 5th day of October, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Exts.P4 and P6 orders. Ext.P4 is an order in an amendment application and Ext.P6 is an order in an application seeking permission to serve interrogatories on the defendant. A perusal of the order would reveal that the Court seriously did not advert to the facts stated in the applications but was of the view that the plaintiff has not taken steps at the appropriate stage and therefore dismissed the applications. It is true that the suit is one for injunction. It is submitted before me that both the plaintiffs as well as defendant are claiming right over the property basing on title and the amendment is necessitated to describe and explain it in detail which may have a bearing in the suit. It is for the Court below to consider it after considering both sides. Therefore, I set aside the orders passed by the learned Munsiff, Kozhikode-II and direct him to restore both the

applications, give an opportunity to the respondent therein to file a counter and after hearing both sides dispose of the matter in accordance with law bearing in mind the principles laid down by this Court.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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